

**REMARKS/ARGUMENTS**

This amendment is in response to the Final Office Action of April 3, 2008 in which the Examiner (1) rejected claims 1, 3, 4, 7, 13-14 and 17-18 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,143,428 ("**Bruck**"), (2) rejected claimx 9-10, 12 and 19 under 35 U.S.C. 103(a) as being unpatentable over **Bruck** in view of U.S. Patent No. 6, 757,365 ("**Bogard**") and (3) rejected claim 20 under 35 U.S.C. 103(a) as being unpatentable over **Bruck**, further in view of U.S. Patent No. 6,968,364 ("**Wong**") and U.S. Patent No. 6,889,321 ("**Kung**").

By the present Amendment, it is proposed that claim 1 be amended and that claim 20 be canceled.

Applicant's invention, as embodied in independent claim 1, is a communications network for users of an IM application, comprising a display device, plural display windows at the display device, and a server that stores instant messaging content. The instant messaging content includes "a program ID associated with each message" for identifying the broadcast television program being viewed. The server aggregates the instant messaging content "so that video programming activity by multiple users can be tracked on a real time basis at the server in order to reflect moment-by-moment the level of instant messaging activity corresponding to television programs being viewed." Applicant has clarified claim 1 to recite, among other things, that the instant messaging continent includes "instant messages sent from the users" and that a program ID is "associated with each of the sent messages."

Applicant respectfully requests that the claim amendments be entered since the additional recitations were implicit in the previous claim, and would not require new searching. Alternatively, Applicant requests entry in order to place the claims in better form for purposes of appeal.

The Examiner cites **Bruck** for its teaching of a server storing instant messaging content, including a program ID identifying the television program being viewed (see page 3 of the Remarks). Applicant points out that in **Bruck** there is no server for aggregating the instant messaging content "so that video programming activity by multiple users can be tracked."

Rather, the server disclosed in **Bruck** is a "chat server," that may "echo" or transmit IM messages (similar to the IM server 192 in Applicant's specification). The messages in **Bruck** do not do not have "a program ID associated with each of the sent messages." Thus, even if the chat server in **Bruck** were viewed as "aggregating" content in order to echo messages, the chat server clearly does not aggregate program IDs in order to track video programming activity, as recited in claim 1.

The Examiner apparently relies on the television program identifier 126 in **Bruck** (col. 7, lines 51-52; Fig. 6) to teach Applicant's program ID, but as best understood the identifier 126 in **Bruck** is for the purpose of identifying the program being viewed in TV region 118. Such identifier is clearly not "associated with each of the instant messages", and is clearly not aggregated at a server "so that video programming activity by multiple users can be tracked," as recited in claim 1.

The other cited references (**Bogard, Wong and Kung**) likewise do not disclose the limitations referred to above, and thus claim 1 is believed allowable over those references (either alone or as combined with **Bruck**).

Dependent claims 3, 4 7, 9-14 and 17-19 each include limitations in addition to those of claim 1 and are believed allowable for at least the same reasons as stated above.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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